

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 M. TRAVIS PEERY
Deputy Attorney General
4 State Bar No. 261887
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-0962
6 Facsimile: (213) 897-2804
Attorneys for Complainant

FILED

Date 4/12/16 By

Susan Saylor

7
8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2016-49

13 **HAMANN EXTERMINATORS, INC.;**
14 **NEIL GREGORY FIERRO, CEO/QM**
15 **P.O. Box 2359**
16 **Pico Rivera, CA 90662**

ACCUSATION

17 **Company Registration Certificate No. PR**
18 **3882, Branch 3,**

19 **and**

20 **NEIL GREGORY FIERRO**
21 **392 Calle Guaymas**
22 **San Clemente, CA 92672**

23 **Operator's License No. OPR 11582,**
24 **Branch 3**

25 Respondents.

26 Complainant alleges:

27 **PARTIES**

28 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as
the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer
Affairs.

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2. On or about March 22, 2001, the Structural Pest Control Board issued Company Registration Certificate Number PR 3882 (registration) to Hamann Exterminators, Inc. (Respondent Hamann) in Branch 3, with Neil Gregory Fierro as CEO (Respondent Fierro) and Gregory Howard Wagner as Qualifying Manager. On October 24, 2007, the registration reflected a change of Qualifying Manager to Respondent Fierro. The Company Registration Certificate was in full force and effect at all times relevant to the charges brought herein.

3. On or about September 27, 2007, the Structural Pest Control Board issued Operator's License Number OPR 11582 (license), to Respondent Fierro in Branch 3. The license reflected employment with Hamann Exterminators, Inc. On October 24, 2007, Operator's license Number OPR 11582 became the Qualifying Manager of Hamann Exterminators, Inc. The Operator's License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2016, unless renewed.

JURISDICTION

4. This Accusation is brought before the Structural Pest Control Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 8620 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

6. Section 8624 of the Code states:

If the board suspends or revokes an operator's license and one or more branch offices are registered under the name of the operator, the suspension or revocation may be applied to each branch office.

If the operator is the qualifying manager, a partner, responsible officer, or owner of a registered structural pest control company, the suspension or revocation may be applied to the company registration.

The performance by any partnership, corporation, firm, association, or registered company of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against any licensee who, at the time the act or omission occurred, was the qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm, association, or registered

company whether or not he or she had knowledge of, or participated in, the prohibited act or omission.

7. Section 8625 of the Code states:

The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending or revoking such license or registration.

8. Section 8654 of the Code states:

Any individual who has been denied a license for any of the reasons specified in Section 8568, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, associate, qualifying manager, or responsible managing employee of any partnership, corporation, firm, or association whose application for a company registration has been denied for any of the reasons specified in Section 8568, or whose company registration has been revoked as a result of disciplinary action, or whose company registration is under suspension, and while acting as such member, officer, director, associate, qualifying manager, or responsible managing employee had knowledge of or participated in any of the prohibited acts for which the license or registration was denied, suspended or revoked, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of a registered company, and the employment, election or association of such person by a registered company is a ground for disciplinary action.

STATUTORY PROVISIONS

9. Section 8516 of the Code states:

(a) This section, and Section 8519, apply only to wood destroying pests or organisms.

(b) No registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator. The address of each property inspected or upon which work is completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 business days after the commencement of an inspection or upon completed work.

Every property inspected pursuant to subdivision or Section 8518 shall be assessed a filing fee pursuant to Section 8674.

Failure of a registered company to report and file with the board the address of any property inspected or work completed pursuant to Section 8518 or this section is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars (\$2,500).

A written inspection report conforming to this section and on a form approved by the board shall be prepared and delivered to the person requesting the

1 inspection or to the person's designated agent within 10 business days of the
2 inspection, except that an inspection report prepared for use by an attorney for
3 litigation purposes is not required to be reported to the board. The report shall be
4 delivered before work is commenced on any property. The registered company shall
5 retain for three years all original inspection reports, field notes, and activity forms.

6 Reports shall be made available for inspection and reproduction to the
7 executive officer of the board or his or her duly authorized representative during
8 business hours. Original inspection reports or copies thereof shall be submitted to the
9 board upon request within two business days. The following shall be set forth in the
10 report:

11 ...

12 (6) A foundation diagram or sketch of the structure or structures or
13 portions of the structure or structures inspected, indicating thereon the approximate
14 location of any infested or infected areas evident, and the parts of the structure where
15 conditions that would ordinarily subject those parts to attack by wood destroying pests
16 or organisms exist.

17 (7) Information regarding the substructure, foundation walls and
18 footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing
19 that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling
20 joists, and attic walls, or other parts subject to attack by wood destroying pests or
21 organisms. Conditions usually deemed likely to lead to infestation or infection, such
22 as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive
23 moisture conditions, evidence of roof leaks, and insufficient ventilation are to be
24 reported.

25 10. Section 8622 of the Code states:

26 (a) When a complaint is accepted for investigation of a registered
27 company, the board, through an authorized representative, may inspect any or all
28 properties on which a report has been issued pursuant to Section 8516 or a notice of
completion has been issued pursuant to Section 8518 by the registered company to
determine compliance with the provisions of this chapter and the rules and regulations
issued thereunder. If the board determines the property or properties are not in
compliance, a notice shall be sent to the registered company so stating. The registered
company shall have 30 days from the receipt of the notice to bring the property into
compliance, unless an extension is authorized by the board, and it shall submit a new
original report or completion notice or both and an inspection fee of not more than
one hundred twenty-five dollars (\$125) for each property inspected. If a subsequent
reinspection is necessary, pursuant to the board's review of the new original report or
notice or both, a commensurate reinspection fee shall also be charged. If the board's
authorized representative makes no determination or determines the property is in
compliance, no inspection fee shall be charged.

(b) The notice sent to the registered company shall inform the registered
company that if it desires a hearing to contest the finding of noncompliance, the
hearing shall be requested by written notice to the board within 20 days of receipt of
the notice of noncompliance from the board. If a hearing is not requested pursuant to
this section, payment of any assessment shall not constitute an admission of any
noncompliance charged.

1 11. Section 8638 of the Code states that "[f]ailure on the part of a registered company to
2 complete any operation or construction repairs for the price stated in the contract for such
3 operation or construction repairs or in any modification of such contract is a ground for
4 disciplinary action."

5 12. Section 8641 of the Code States:

6 Failure to comply with the provisions of this chapter, or any rule or
7 regulation adopted by the board, or the furnishing of a report of inspection without the
8 making of a bona fide inspection of the premises for wood-destroying pests or
9 organisms, or furnishing a notice of work completed prior to the completion of the
10 work specified in the contract, is a ground for disciplinary action.

11 13. Section 8644 of the Code states:

12 Fraud or misrepresentation, after inspection, by any licensee or registered
13 company engaged in pest control work of any infestation or infection of
14 wood-destroying pests or organisms found in property or structures, or respecting any
15 conditions of the structure that would ordinarily subject structures to attack by
16 wood-destroying pests or organisms, whether or not a report was made pursuant to
17 Sections 8516 and 8517 of this code, is a ground for disciplinary action.

18 14. Section 8652 of the Code states:

19 Failure of a registered company to make and keep all inspection reports,
20 field notes, contracts, documents, notices of work completed, and records, other than
21 financial records, for a period of not less than three years after completion of any
22 work or operation for the control of structural pests or organisms, is a ground for
23 disciplinary action. These records shall be made available to the executive officer of
24 the board or his or her duly authorized representative during business hours.

25 15. Government Code section 11519(d) provides, in pertinent part, that the Board may
26 require restitution of damages suffered as a condition of probation in the event probation is
27 ordered.

28 **REGULATORY PROVISIONS**

16. California Code of Regulations, title 16, section 1937.14, states:

All work completed by licensees or registered companies shall be done
within the specific requirements of any plans or specifications and shall meet
accepted trade standards for good and workmanlike construction in any material
respect, and shall comply with provisions of Section 2516(c)(1), (2), (4) and (6) of
Title 24, California Code of Regulations.

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1 17. California Code of Regulations, title 16, section 1990, states:

2 (a) All reports shall be completed as prescribed by the board. Copies filed with
3 the board shall be clear and legible. All reports must supply the information required
4 by Section 8516 of the Code and the information regarding the pesticide or
pesticides used as set forth in Section 8538 of the Code, and shall contain or
describe the following:

5 ...

6 (3) Infestations, infections or evidence thereof.

7 (4) Wood members found to be damaged by wood destroying pests or
8 organisms.

9 (b) Conditions usually deemed likely to lead to infestation or infection include,
10 but are not limited to:

11 ...

12 (3) Excessive Cellulose Debris. This is defined as any cellulose debris of a size
13 that can be raked or larger. Stumps and wood imbedded in footings in earth contact
14 shall be reported.

15 (4) Earth-wood contacts.

16 (5) Commonly controllable moisture conditions which would foster the growth
17 of a fungus infection materially damaging to woodwork.

18 ...

19 (e) Information regarding all accessible areas of the structure including but not
20 limited to the substructure, foundation walls and footings, porches, patios and steps,
21 stairways, air vents, abutments, stucco walls, columns, attached structures or other
parts of a structure normally subject to attack by wood-destroying pests or
organisms.

22 18. California Code of Regulations, title 16, section 1991, states:

23 (a) Recommendations for corrective measures for the conditions found shall be
24 made as required by paragraph 10 of subdivision (b) of Section 8516 of the code and
25 shall also conform with the provisions of Title 24 of the California Code of
Regulations and any other applicable local building code, and shall accomplish the
following:

26 ...

27 (5) Structural members which appear to be structurally weakened by
28 wood-destroying pests to the point where they no longer serve their intended purpose
shall be replaced or reinforced. Structural members which are structurally weakened

1 by fungus to the point where they no longer serve their intended purpose shall be
2 removed or, if feasible, may remain in place if another structural member is installed
3 adjacent to it to perform the same function, if both members are dry (below 20%
4 moisture content), and if the excessive moisture condition responsible for the fungus
5 damage is corrected. Structural members which appear to have only surface fungus
6 damage may be chemically treated and/or left as is if, in the opinion of the inspector,
7 the structural member will continue to perform its originally intended function and if
8 correcting the excessive moisture condition will stop the further expansion of the
9 fungus.

10 19. California Code of Regulations, title 16, section 1993, states:

11 All of the following reports must be in compliance with the requirements
12 of Section 8516 of the code. All reports must be on the form prescribed by the board.

13 (a) An original inspection report is the report of the first inspection
14 conducted on a structure at the request of a specified party or for a specified purpose.
15 Subsequent inspections conducted on a structure at the request of a different party, for
16 a different purpose than a previous inspection, or a different transaction relating to the
17 same structure shall be deemed to be new inspections for which an original inspection
18 report shall be required. An original inspection report may be either a complete or
19 limited inspection.

20 (b) A complete report is the report of an inspection of all visible and
21 accessible portions of a structure.

22 (c) A limited report is the report on only part of a structure. Such a report
23 shall have a diagram of the area inspected and shall specifically indicate which
24 portions of the structure were inspected with recommendation for further inspection
25 of the entire structure and the name of the person or agency requesting a limited
26 report.

27 (d) A supplemental report is the report on the inspection performed on
28 inaccessible areas that have been made accessible as recommended on a previous
report. Such report shall indicate the absence or presence of wood-destroying pests or
organisms or conditions conducive thereto. This report can also be used to correct,
add, or modify information in a previous report. A licensed operator or field
representative shall refer to the original report in such a manner to identify it clearly.

(e) A reinspection report is the report on the inspections of items)
completed as recommended on an original report or subsequent reports). The areas
reinspected can be limited to the items requested by the person ordering the original
inspection report. A licensed operator or field representative shall refer to the original
report in such a manner to identify it clearly.

23 COST RECOVERY

24 20. Section 125.3 of the Code states, in pertinent part, that a Board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

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BACKGROUND

21. A Wood Destroying Pests and Organisms (WDO) Activity Search conducted by the Board disclosed that Respondents filed with the Board a WDO inspection dated August 6, 2014 and a Standard Notice of Work Completed and Not Completed (completion notice) dated August 27, 2014 for a property currently owned by Fanny Vasquez (Vasquez) located at 15402 Gridley Road, in Norwalk (Vasquez Property). The WDO inspection was ordered by Armando Mendez (Mendez) with Remax College Park for escrow purposes prior to Vasquez purchasing the property. Respondents performed the WDO inspection and prepared the "separated" WDO inspection report containing eight findings and recommendations. The WDO inspection report indicated the recommended work would cost \$599.00.

22. On or about March 31, 2015, Vasquez contacted Respondent Hamann and relayed that she observed holes in the master bathroom which she thought could be termites. Respondent Hamann indicated they would send someone to inspect the home the next day. On or about April 1, 2015, a Hamann inspector arrived at the Vasquez Property and indicated the holes in the master bathroom wall were the result of drywood termites and that Respondent Hamann would come out and drill holes through the bathroom walls on what the inspector believed was the one beam that was infected. The inspector indicated he did not need to see anything else such as the attic or under the home. The inspector did not provide a written inspection report. Upon doing her own research on how inspections take place, Vasquez called Respondent Hamann again and requested they conduct a full inspection and check the attic and under the house. Respondent Hamann indicated they would not be able to send anyone until April 7, 2015.

23. On or about April 7, 2015, two Hamman inspectors returned to the Vasquez Property and, after looking at the wall in the master bathroom and the wall in the living room which also had small holes, identified drywood termites, indicated localized treatment would not be effective, and recommended contacting a fume company and having the home tented. The inspectors indicated that they did not need to see anything else and no written inspection report was provided. Vasquez subsequently contacted AAA Fume, Inc. (AAA Fume) who sent an inspector to the Vasquez Property on or about April 14, 2015. The inspector for AAA Fume inspected the

1 master bathroom, living room, kitchen, garage, windowsills, and underneath the house and
2 identified termite evidence as that of subterranean termites, not drywood termites. The inspector
3 indicated that tenting the home would not solve the problem, that localized treatment was needed,
4 and referred Vasquez back to Respondent. This led to Vasquez filing a complaint against
5 Respondents with the Board.

6 24. On April 28, 2015, Board Specialist Steven R. Smith (Specialist Smith) inspected the
7 Vasquez Property. Specialist Smith found, photographed, and indicated on his Field Work Sheet
8 11 items which included both evidence of drywood termites and drywood termite damage as well
9 as evidence of subterranean termites and subterranean termite damage.

10 25. On or about April 29, 2015, Specialist Smith received from Respondent Hamann a
11 Termite Request Form indicating a scheduled WDO inspection on May 6, 2014 and a field sheet
12 indicating a scheduled fumigation on June 3, 2014 by AAA Fume, both ordered by Mendez of
13 Remax College Park. The June 3, 2014 date on the field sheet for the scheduled fumigation by
14 AAA Fume matched the date on the AAA Fume tag posted in the attic of the Vasquez Property.

15 26. On May 18, 2015, the Board mailed Respondent Fierro a Report of Findings outlining
16 the violations Specialist Smith found as a result of his inspection and informing Respondent
17 Fierro he had 30 days from receipt of the Report of Findings to inspect the Vasquez Property,
18 bring it into compliance by correcting the items described in the Report of Findings, and submit a
19 Standard Notice of Work Completed and Not Completed to the Board. The Board received a
20 certified mailing return receipt indicating Respondents received the Report of Findings on May
21 21, 2015. Pursuant to Specialist Smith's May 18, 2015 Report of Findings, the following issues
22 were identified with Respondents' August 6, 2014 "complete," "separated" inspection report
23 based on Specialist Smith's inspection of the property:

- 24 a. Failure to report the cellulose debris in the substructure;
- 25 b. Failure to report the full extent of the evidence of subterranean termites in the
26 substructure;
- 27 c. Failure to report the subterranean termite damage at the substructure framing;
- 28 d. Failure to report the evidence of drywood termites in the substructure framing;

- e. Failure to report the drywood termite damage at the substructure framing;
- f. Failure to report earth-to-wood contact at the fence post attached to the house;
- g. Failure to report the evidence of drywood termites in the attic framing;
- h. Failure to report the drywood termite damage at the attic framing;
- i. Failure to report the evidence of drywood termites in the garage framing;
- j. Failure to report the drywood termite damage at the garage framing;
- k. Failure to report the evidence of drywood termites in the house eaves;
- l. Failure to report the drywood termite damage at the house eaves;
- m. Failure to make a proper finding and recommendation regarding the reported decay fungi damage. The findings failed to identify the moisture condition and why it may be a source of the infections. The recommendation failed to include a statement to correct the moisture condition once confirmed to be the cause of the infections.
- n. Failure to complete the work regarding the chemical treatment performed for the reported evidence of subterranean termites in the substructure and garage. The evidence was reported on the 8/6/14 "complete," "separated" inspection report, and was certified as having been completed on the 8/27/14 completion notice. Evidence of subterranean termites remains at the reported areas in the substructure; no signs of treatment are evident in the substructure or garage;
- o. Failure to complete the work in a workmanlike manner regarding the reported decay fungi damage at the front porch load. Signs of patching exist. The damage was reported on the 8/6/14 "complete," "separated" inspection report and was certified as having been completed on the 8/27/14 completion notice.

27. On or about May 27, 2015, Specialist Smith met Respondent Fierro at the Vasquez Property to observe his WDO inspection. Before Respondent Fierro commenced his inspection, Specialist Smith asked him to provide his May 6, 2014 inspection report. Respondent Fierro told Specialist Smith he was unable to retrieve that inspection report off of his computer but produced a field sheet which he indicated was from his May 6, 2014 inspection. Respondent Fierro then

1 completed his WDO inspection of the Vasquez Property after spending approximately 10 minutes
2 inspecting the attic and another 10 minutes inspecting the substructure. Specialist Smith observed
3 that Respondent Fierro was not inspecting the entire attic and substructure and as a result did not
4 find all the issues that needed to be addressed. Respondent Fierro stated that he did not find any
5 Section I problems, only Section II problems: cellulose debris and water stains.

6 28. On or about May 28, 2015, Specialist Smith received a copy of Respondent Fierro's
7 May 27, 2015 WDO inspection report on the Vasquez Property which contained 19 findings and
8 recommendation and a number of notes. Specialist Smith subsequently informed Respondent
9 Fierro that his WDO inspection report of May 27, 2015 was not in compliance and Respondent
10 Fierro indicated he would find another registered company to inspect the property and perform the
11 required work. Specialist Smith later received a copy of an inspection report on the Vasquez
12 Property from Brothers Termite Co. on August 18, 2015 which contained 20 findings and
13 recommendations and a supplemental inspection report on September 2, 2015 which contained 12
14 findings and recommendations. The total cost of the recommended work in these inspection
15 reports was \$39,060.00 which Smith found, in his professional opinion, to be reasonable. As of
16 February-25, 2016, no work had been performed at the Vasquez Property.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Failure to Complete Work – August 6, 2014 Inspection Report)**

19 29. Respondents are subject to disciplinary action under section 8638 of the Code and
20 California Code of Regulations title 16, section 1937.14 in that, with regard to the Vasquez
21 Property, they failed to complete the following work reported on the August 6, 2014 "separated"
22 inspection report, and certified as having been completed on the August 27, 2014 completion
23 notice:

24 a. Respondents failed to complete work regarding the reported decay fungi
25 damage at the front porch load post, which was just patched instead of being replaced. Decay
26 fungi damage remains at the load post and decay fungi damage cannot be patched.

27 b. Respondents failed to complete work regarding the chemical treatment
28 performed for the reported evidence of subterranean termites in the substructure and garage.

1 Complainant hereby incorporates paragraphs 26-28, above, as though set forth fully herein.

2 **SECOND CAUSE FOR DISCIPLINE**

3 **(Failure to Complete Work – May 27, 2015 Inspection Report)**

4 30. Respondents are subject to disciplinary action under section 8638 of the Code and
5 California Code of Regulations title 16, section 1937.14 in that they failed to complete the work
6 reported on the May 27, 2015, inspection report, resulting in a financial injury to the consumer in
7 the amount of \$39,060.00. Complainant hereby incorporates paragraphs 21-28, above, as though
8 set forth fully herein.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Improper Inspection Report – August 6, 2014)**

11 31. Respondents are subject to disciplinary action under section 8641 in that, with regard
12 to the Vasquez Property, they submitted an inspection report dated August 6, 2014 that failed to
13 comply with provisions of the Structural Pest Control Act as follows:

14 a. **Section 8516, subdivision (b)(6)**, for the reasons specified in paragraph 26,
15 subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m).

16 b. **Section 8516, subdivision (b)(7)**, for the reasons specified in paragraph 26,
17 subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m).

18 c. **California Code of Regulations, title 16, section 1990, subdivision (a)(3)**, for
19 the reasons specified in paragraph 26, subsections (b), (d), (g), (i), and (k).

20 d. **California Code of Regulations, title 16, section 1990, subdivision (a)(4)**, for
21 the reasons specified in paragraph 26, subsections (c), (e), (h), (j), and (l).

22 e. **California Code of Regulations, title 16, section 1990, subdivision (b)(3)**, for
23 the reasons specified in paragraph 26, subsection (a).

24 f. **California Code of Regulations, title 16, section 1990, subdivision (b)(4)**, for
25 the reasons specified in paragraph 26, subsection (f).

26 g. **California Code of Regulations, title 16, section 1990, subdivision (b)(5)**, for
27 the reasons specified in paragraph 26, subsection (m).

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1. h. **California Code of Regulations, title 16, section 1990, subdivision (e)**, for
2 the reasons specified in paragraph 26, subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l),
3 and (m).

4 i. **California Code of Regulations, title 16, section 1991, subdivision (a)(5)**, for
5 the reasons specified in paragraph 26, subsection (m).

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Improper Inspection Report – May 27, 2015)**

8 32. Respondents are subject to disciplinary action under section 8641 in that, with regard
9 to the Vasquez Property, they submitted an inspection report dated May 27, 2015 that failed to
10 comply with provisions of the Structural Pest Control Act as follows:

11 a. **Section 8516, subdivision (b)(6)**, for the reasons specified in paragraph 26,
12 subsections (b), (c), (d), (e), (g), (h), (i), (j), (k), (l), and (m).

13 b. **Section 8516, subdivision (b)(7)**, for the reasons specified in paragraph 26,
14 subsections (b), (c), (d), (e), (g), (h), (i), (j), (k), (l), and (m).

15 c. **California Code of Regulations, title 16, section 1990, subdivision (a)(3)**, for
16 the reasons specified in paragraph 26, subsections (b), (d), (g), (i), and (k).

17 d. **California Code of Regulations, title 16, section 1990, subdivision (a)(4)**, for
18 the reasons specified in paragraph 26, subsections (c), (e), (h), (j), and (l).

19 e. **California Code of Regulations, title 16, section 1990, subdivision (b)(5)**, for
20 the reasons specified in paragraph 26, subsection (m).

21 f. **California Code of Regulations, title 16, section 1990, subdivision (e)**, for
22 the reasons specified in paragraph 26, subsections (b), (c), (d), (e), (g), (h), (i), (j), (k), (l), and
23 (m).

24 g. **California Code of Regulations, title 16, section 1991, subdivision (a)(5)**, for
25 the reasons specified in paragraph 26, subsection (m).

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Misrepresentation After Inspection)**

3 33. Respondents are subject to disciplinary action under section 8644 of the Code in that,
4 with regard to the inspection report diagram dated May 27, 2015:

5 a. Respondents represented that evidence of subterranean termites and
6 subterranean termite damage existed in the substructure and at the interior of the Vasquez
7 property when in fact, it did not.

8 b. Respondents represented that evidence of drywood termite damage existed in
9 the garage eaves of the Vasquez Property when in fact, it did not.

10 c. Respondents represented that evidence of decay fungi damage existed at the
11 front porch of the Vasquez Property when in fact, it did not.

12 **SIXTH CAUSE FOR DISCIPLINE**

13 **(Failure to Issue Inspection Reports)**

14 34. Respondents are subject to disciplinary action under section 8516 of the Code and
15 California Code of Regulations, title 16, section 1993, in that they failed to issue inspection
16 reports for the WDO inspections performed at the Vasquez Property on April 1, 2015 and April 7,
17 2015. Complainant hereby incorporates paragraphs 22-23, above, as though set forth fully herein.

18 **SEVENTH CAUSE FOR DISCIPLINE**

19 **(Failure to Maintain Records)**

20 35. Respondents are subject to disciplinary action under section 8652 of the Code in that
21 they failed to maintain records for a period of three years and have them available to the executive
22 officer of the Board or his or her duly authorized representative during business hours.

23 Respondent was unable to provide Specialist Smith with a copy of the May 6, 2014 inspection
24 report it issued on the Vasquez property. Complainant hereby incorporates paragraph 27, above,
25 as though set forth fully herein.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Report of Findings)**

3 36. Respondents are subject to disciplinary action under section 8622 of the Code in that
4 they failed to comply within 30 days with the Report of Findings they received from the Board on
5 May 21, 2015. As of February 25, 2016, no work has been performed at the Vasquez Property.
6 Complainant hereby incorporates paragraphs 26-28, above, as though set forth fully herein.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Structural Pest Control Board issue a decision:

10 1. Revoking or suspending Company Registration Certificate Number PR 3882, Branch
11 3, issued to Hamann Exterminators, Inc.; Neil Gregory Fierro, CEO/QM;

12 2. Revoking or suspending Operator's License Number OPR 11582, Branch 3, issued to
13 Neil Gregory Fierro;

14 3. Prohibiting Neil Gregory Fierro from serving as an officer, director, associate, partner,
15 qualifying manager, or responsible managing employee of any registered company during the
16 period that discipline is imposed on Operator License Number OPR 11582, issued Neil Gregory
17 Fierro;

18 4. Ordering Hamman Exterminators, Inc.; Neil Gregory Fierro, CEO/QM and Neil
19 Gregory Fierro to pay the Structural Pest Control Board the reasonable costs of the investigation
20 and enforcement of this case, pursuant to Business and Professions Code section 125.3;

21 5. Ordering Hamman Exterminators, Inc.; Neil Gregory Fierro, CEO/QM and Neil
22 Gregory Fierro to pay restitution of all damages according to proof suffered by the owner(s) of the
23 incident property as a condition of probation in the event probation is ordered; and

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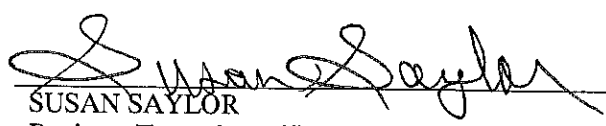
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6. Taking such other and further action as deemed necessary and proper.

DATED: 4/12/16



SUSAN SAYLOR
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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